HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.19431 of 2006

Dated:20.09.2006

Between:

Sri M.Raj Reddy.

…Petitioner

and

Sub-Registrar and others.

…Respondent

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.19431 of 2006

ORDER:

The petitioner herein is the son of the third respondent. He is aggrieved by the registered gift deed executed by the third respondent in favour of the fourth respondent herein who is given in adoption to Smt. & Sri K.Chinna Ram Reddy. The gift deed was registered on 07.12.2005 by the first respondent. The petitioner alleges that the fourth respondent, having been given in adoption, has no right in the property of the third respondent, and therefore, execution of gift deed is illegal. In this Writ Petition the petitioner seeks a writ of mandamus declaring the action of the first respondent in registering the gift deed dated 07.12.2005 as illegal and arbitrary.

After hearing the learned Counsel for the petitioner and the learned Assistant Government Pleader for Revenue (General), this Court is of considered opinion that this Writ Petition is wholly misconceived. Whether the fourth respondent, by reason of adoption into another family, is divested of right to succeed to the property, whether the third respondent could validly execute a gift deed in favour of the fourth respondent, and whether the registration of the gift deed by the first respondent for any other reason is illegal, are matters which cannot be decided in a Writ Petition. This aspect of the matter, as rightly pointed out by the learned Assistant Government Pleader, has been considered by this Court in **Valluri Anuradha v. Sub-Registrar, Saroornagar, R.R.District**[1]**.** In the said judgment after referring to

the provisions of the Registration Act, 1908, and Rule 58 of the A.P.Rules under Registration Act, 1908, it was laid down as under.

> When a person is aggrieved by registration of a document or for that matter, registration of a cancellation deed, a writ petition under Article 226 of Constitution of India is not a proper remedy. There is no gainsaying that the power of judicial review under Article 226 of Constitution of India does not enable the High Court to redress – in public law; a grievance *de hors* the procedural and/or substantive laws governing the parties before it…
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> …As the said cancellation deeds are already registered, the petitioners cannot now raise any objection before the first respondent. Under what circumstances initially the third respondent executed gift deeds in favour of the petitioners and under what circumstances he cancelled those gift deeds are matters, which cannot be gone into in the writ petition. The best remedy would be to seek cancellation of offending gift deeds executed by the third respondent by filing appropriate suits in the civil Court. In the matter of this nature – a family dispute; writ petition is not a proper remedy as it is a dispute essentially in the filed of private law having its genesis in the strained relationship between the first petitioner and the third respondent, which can be resolved only in a civil Court. Liberty is reserved to the petitioners to seek appropriate redressal by filing suits in a civil Court, in which event, the civil Court shall decide the matter without in any manner being influenced by the observations made hereinabove.

Following the same, this Writ Petition is dismissed. No costs.

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(V.V.S.RAO, J)

20.09.2006
vs

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[1] 2006 (2) ALD 371